

Coast Guard, DHS

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the owners, agents, masters, officers, persons in charge, and members of the crew of such vessels that are located at or get underway from a berth, pier, mooring, or anchorage in U.S. territorial waters, or depart U.S. territorial waters with the intent to enter Cuban territorial waters; and

(3) Any person who knowingly fails to comply with this subpart or order given under this subpart, or knowingly obstructs or interferes with the exercise of any power conferred by this subpart.

(b) This subpart does not apply to: Foreign vessels, as defined by 46 U.S.C. 2101(12), public vessels, as defined by 46 U.S.C. 2101(24) operated for non-commercial purposes, or vessels of the United States entering Cuban territorial waters under force majeure.

§ 107.215 Regulations.

(a) Each person or vessel to which this subpart applies may not get underway or depart from U.S. territorial waters without a written permit from the Commander, Seventh Coast Guard District, or the District Commander's designee. Permits may be obtained pursuant to the process established in § 107.220. The owner, agent, master, or person in charge of the vessel must maintain the written permit for the vessel on board the vessel.

(b) Each person or vessel to which this subpart applies must obey any oral or written order issued by a Coast Guard Area or District Commander, or their designees, who may issue oral or written orders to control the anchorage or movement of such vessels and persons. Designees include Captains of the Port, and commissioned, warrant and petty officers of the Coast Guard.

(c) No person or vessel to which this subpart applies may obstruct or interfere with the exercise of any power conferred by this subpart.

(d) Coast Guard commissioned, warrant and petty officers may go or remain on board a vessel subject to this subpart, may place guards on the subject vessel, may remove all persons not specifically authorized by the Coast Guard to go or remain on board the subject vessel, and may take full or partial possession or control of any such vessel or part thereof, or person

on board. Such actions to be taken are in the discretion of the Coast Guard Area or District Commander, or their designees, as deemed necessary to ensure compliance with this subpart and any order given pursuant thereto.

(e) Where there is a reasonable, articulable basis to believe a vessel to which this subpart applies intends to enter Cuban territorial waters, any Coast Guard commissioned, warrant, or petty officer may require the owners, agents, masters, officers, or persons in charge, or any member of the crew of any such vessel to provide verbal assurance that the vessel will not enter Cuban territorial waters as a condition for a vessel to get underway from a berth, pier, mooring, or anchorage in U.S. territorial waters, or to depart from U.S. territorial waters. A Coast Guard commissioned, warrant, or petty officer may require the owners, agents, masters, officers, or persons in charge of the vessel to identify all persons on board the vessel and provide verbal assurances that all persons on board have received actual notice of these regulations. The failure of an owner, agent, master, officer, or person in charge, or any member of the crew of any vessel (including all auxiliary vessels) to which this subpart applies to provide requested verbal assurances shall not be used as the sole basis for seizing the vessel for forfeiture under this subpart.

(f) The provisions of this subpart are in addition to any powers conferred by law upon Coast Guard commissioned, warrant, or petty officers, and not in limitation of any powers conferred by law or regulation upon such officers, or any other officers of the United States.

§ 107.220 Permits.

(a) Applications for a permit may be obtained by writing or calling the Chief of Operations at Commander, Seventh Coast Guard District (o), 909 SE First Avenue, Miami, FL 33131, telephone (305) 415-6920, or by such other means as the District Commander may make available to the public. The completed application may be returned via regular mail or facsimile to the Chief of Operations at Commander, Seventh Coast Guard District (o), 909 SE First Avenue, Miami, FL 33131, facsimile

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(305) 415-6925, or by other means prescribed by the District Commander for the convenience of the applicant.

(b) All applications must be written in English and legible.

(c) The information and documentation in this paragraph must be provided with the application in order for it to be complete and considered by the Coast Guard:

(1) The name, address, and telephone number of the applicant;

(2) A copy of the valid vessel registration;

(3) A copy of a valid and applicable license issued to the applicant by the U.S. Department of Commerce, Bureau of Industry and Security, pursuant to the Export Administration Regulations, 15 CFR chapter VII, subchapter C, parts 730-774 for the export of the vessel to Cuba; and

(4) A copy of a valid and applicable specific license issued by the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC), pursuant to the Cuban Assets Control Regulations, 31 CFR part 515, authorizing the applicant's travel-related transactions in Cuba. Applicants who do not require such an OFAC specific license shall make a written certification to that effect identifying which OFAC general license applies or explaining why no OFAC license is required.

(d) Such applications must provide the documentation required by § 107.220(c) for each person to which this subpart applies on board the particular vessel.

(e) Upon receiving an application for a permit, the Seventh Coast Guard District Commander (o) has ten (10) calendar days from the receipt of the application to decide whether the application is complete and, if so, whether a permit will be issued or denied. Applicants will be notified in writing of the decision to issue or deny a permit. Incomplete applications will be returned to the applicant, along with the reasons why such application was deemed incomplete.

§ 107.225 Appeals.

(a) Upon written notification by the Coast Guard that an application has been denied, the applicant may request the Seventh Coast Guard District Com-

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mander to reconsider. The request to reconsider must be in writing, must be made within five (5) business days from the date of receipt of the initial denial, and must contain complete supporting documentation and evidence which the applicant wishes to have considered. Requests for reconsideration must be mailed to Commander, Seventh Coast Guard District (d), 909 SE First Avenue, Miami, FL 33131.

(b) Upon receipt of the request to reconsider, the Seventh Coast Guard District Commander may direct a representative to gather and submit documentation or other evidence, which, in the judgment of the Seventh District Commander, would be necessary or helpful to a resolution of the request. If gathered and submitted, a copy of this documentation and evidence shall be made available to the applicant. The applicant shall be afforded five (5) business days from the date of receipt of documentation and evidence gathered by the Seventh Coast Guard District Commander's representative to submit rebuttal materials. On or before the fifteenth (15th) calendar day following submission of all materials, the Seventh Coast Guard District Commander shall issue a ruling, in writing, on the request to reconsider. The ruling may reverse the initial denial, or, if the denial is upheld, must contain the specific basis for denial of the application upon reconsideration.

(c) The Seventh Coast Guard District Commander's denial of a request for reconsideration taken under paragraph (b) of this section constitutes final agency action.

§ 107.230 Enforcement.

(a) *Unauthorized departure or entry, or both.* (1) Vessels and persons to whom this subpart applies, as described in § 107.210(a)(1), that do not comply with § 107.215(a), or any order issued pursuant to this subpart may be subject to a civil penalty of not more than \$25,000 for each day of violation.

(2) Vessels and persons to whom § 107.230(a)(1) applies shall be held to a standard of strict liability for any entry into Cuban territorial waters without a permit or for failure to maintain the permit for the vessel on board the vessel as required under this